

# **EXHIBIT A**

BRITISH VIRGIN ISLANDS  
IN THE HIGH COURT OF JUSTICE  
(COMMERCIAL)

BVIHCV NO:74 of 2009

BETWEEN:

BANK JULIUS BAER & COMPANY LIMITED  
AND SNS GLOBAL CUSTODY BV

Applicants

vs.

KENNETH KRYS  
JOANNA LAU (joint liquidators of Fairfield Lambda  
(in liquidation)

Respondent

BVIHCV NO: 136 of 2009

BETWEEN:

ABN AMRO FUND SERVICES (Isle of Man)  
NOMINEES LIMITED (Formerly Fortis (Isle of Man  
Nominees Limited)  
BANK JULIUS BAER AND CO. LIMITED  
SNS GLOBAL CUSTODY BV  
DEUTSCH BANK TRUST COMPANY LIMITED

Applicants

vs.

FAIRFIELD SENTRY LIMITED

Respondent

BVIHCV NO: 139 of 2009

BETWEEN:

USB AG NEW YORK

Applicant

vs.

JERSEY NOMINEES LIMITED  
USB LUXEMBOURG  
USB FUNDS SERVICES  
USB ZURICH

vs.

KENNETH KRYS  
JOANNA LAU (as joint liquidators of Fairfield  
Sigma Limited and Fairfield Lambda (in liquidation)

Respondents

TRANSCRIPT OF TRIAL PROCEEDINGS

Monday, March 23rd 2015  
10:00 a.m. to 4:25 p.m.

SUBMISSIONS BY MR. MARK HAPGOOD, QC  
SUBMISSIONS BY MR. STEVEN RUBIN, QC  
SUBMISSIONS BY MR. GABRIEL MOSS, QC

BEFORE: HONOURABLE JUSTICE BARRY LEON, Judge (Ag)

Court Reporting Unit  
Government of the British Virgin Islands  
Road Town, Tortola  
British Virgin Islands

1     pursing this case, it's a quicker way of doing it from  
2     the actual way of going through all the complaints in  
3     the amended defence.

4                     THE COURT:                     And the  
5     Insolvency Act proceedings in the BVI still could be  
6     brought?

7                     MR. HAPGOOD:                     There are no  
8     Insolvency Act proceedings in the BVI.

9                     THE COURT:                     No, but they  
10    could be brought?

11                    MR. HAPGOOD:                    Yes.

12                    THE COURT:                    There's no time  
13    bar?

14                    MR. HAPGOOD:                    No limitation  
15    period has yet accrued. Whether Sentry has taken  
16    protective steps or might take protective steps, that's  
17    entirely a matter for them to decide. But we can't  
18    have reached any, the expiry of any six-year period  
19    because the earliest winding up order against any  
20    Sentry company was some time in April 2009. I think,  
21    it was April 2009 and so we don't get to six years  
22    until the middle of next month. And I say if they want  
23    to take protective steps, that's up to them. But I  
24    mean they have been on notice with this application  
25    since, well, since for years and it's been on hold

1 pending the hearings before the Court of Appeal and the  
2 Privy Council.

3 Now, so that's these applications.

4 Now may I move on rapidly to those bits  
5 of the BVI proceedings that haven't been recovered.  
6 Before I do so I think I'd better show the Memorandum  
7 and Articles of Association. That's Volume 5A at tab  
8 1. You can see from page 1, these are the memorandum  
9 and articles of Fairfield Sentry Limited and then  
10 there's a list of when these documents were amended and  
11 then there's a recent amendment or the last amendment  
12 made was registered on the 10th of October 2003.

13 At page 6 the Articles of Association,  
14 the amended and restated Articles of Association begin.  
15 In the definitions in section, in Article 1 --

16 THE COURT: Page numbering  
17 you are using is the top page number?

18 MR. HAPGOOD: No, the bottom  
19 right, sorry. Page 6, bottom right. That should be  
20 the start of the Amended and Restated Articles of  
21 Association.

22 Now there are four definitions I am going  
23 to show you. First:

24 "Act, means the International Business  
25 Companies Act as amended from time to time."